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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

KEVIN CARADINE, SR.,

Defendant and Appellant.

A128326

(San Francisco County
Super. Ct. No. 2226767)

Kevin Caradine, Sr. appeals from his conviction, following a plea of guilty on one felony count of possession for sale of cocaine base. (Health & Saf. Code, § 11351.5.¹) Appellant's counsel raises no issues and asks this court for an independent review of the record pursuant to *People v. Wende* (1979) 25 Cal.3d 436, 441-442.

On July 17, 2005, patrol officers stopped appellant for riding his bicycle on the sidewalk. As the officers approached, appellant discarded a clear plastic baggie containing approximately 12 off-white rocks. The contents of the baggie were subsequently analyzed and determined to be 5.30 grams of cocaine base, packaged in a manner consistent with possession for the purposes of sale.

Appellant was charged by information on November 3, 2005 with one count of possession for sale of cocaine base (§ 11351.5). The information contained numerous allegations of prior, drug-related convictions (§§ 11370, subds. (a) & (c), 11370.2, subd. (a)), including three prior conviction allegations for possession for sale of cocaine base

¹ All further statutory references are to the Health and Safety Code unless otherwise indicated.

pursuant to Penal Code section 1203.07, subdivision (a)(11). It was further alleged that appellant had served eight prison terms pursuant to Penal Code section 667.5, subdivision (b).

Appellant plead guilty to count one in accordance with a negotiated disposition, understanding that a sentence of four years in state prison (the middle term under section 11351.5) and fines could be imposed. Prior to accepting the plea, the court advised appellant of his constitutional rights to be waived: the privilege against self-incrimination, the right to be tried by a jury, the right to confront his accusers, and the right to subpoena witnesses and present evidence in defense of the charge. The court advised appellant of the consequences of his guilty plea, including: placement on parole upon release from prison, potential confinement upon revocation of parole, and potential immigration and public assistance consequences. Appellant indicated that his plea was voluntary. There was a factual basis for the plea.

Appellant failed to appear for sentencing on May 8, 2006. Thereafter, he served a three-year term in the Arizona Department of Corrections for a narcotics conviction. On February 26, 2010, after appellant's extradition from Arizona, San Francisco Superior Court Judge Teri L. Jackson sentenced him to four years in prison. The court awarded appellant 294 days presentence custody credit and 146 days conduct credit, for a total of 440 days. The court subsequently granted appellant's motion to increase his award to 588 days pursuant to amended Penal Code section 4019.

On March 10, 2010, appellant filed a timely notice of appeal without a certificate of probable cause. Appellant was notified of his right to file a supplemental brief on his own behalf but has not filed one.

Without a certificate of probable cause, review in this case is limited to the issue of appellant's sentence. *People v. Mendez* (1999) 19 Cal.4th 1084, 1088. The trial court's selection of the middle term is presumptively correct. (Pen. Code, § 1170, subd. (b) ["[w]hen a judgment of imprisonment is to be imposed and the statute specifies three possible terms, the court shall order imposition of the middle term, unless there are

circumstances in aggravation or mitigation of the crime”].) Further, the prison term imposed was in accord with the negotiated plea.

Pursuant to *People v. Wende, supra*, 25 Cal.3d at pages 441-442, we have reviewed the entire record. We find no error.

DISPOSITION

The judgment is affirmed.

Lambden, J.

We concur:

Kline, P.J.

Richman, J.